

STREAMLINED SALES AND USE TAX AGREEMENT

~~DRAFT~~

SEPTEMBER 12, 2002

**Provisions of Interstate Agreement Adopted by
Streamlined Sales Tax Implementing States on**

**January 25, 2002 in New Orleans, LA; March 16, 2002 in Dallas, TX;
April 13, 2002 in Dearborn, MI; May 18, 2002 in Oklahoma City, OK;
June 15, 2002 in Baltimore, MD; July 12, 2002 in Salt Lake City, UT, and
September 13, 2002 in Philadelphia.**

**The Agreement language for motions that were include in the Baseline
document and wording changes for clarification and consistency are shown
with strike-outs and underlines. Changes in internal references and the
shifting of provisions within the document are shown without using strikeouts
and underlines.**

**Recommendations from the Drafting Committee are in red and shown
with strikeouts and underlines.**

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1 **ARTICLE I**
2 **PURPOSE AND PRINCIPLE**
3

4 **Section 101: TITLE**
5

6 This multistate Agreement shall be referred to, cited and known as the Streamlined Sales and
7 Use Tax Agreement.
8

9 **Section 102: FUNDAMENTAL PURPOSE**
10

11 It is the purpose of this Agreement to simplify and modernize sales and use tax administration in
12 the member states in order to substantially reduce the burden of tax compliance. The Agreement
13 focuses on improving sales and use tax administration systems for all sellers and for all types of
14 commerce through all of the following:

- 15 a. State level administration of sales and use tax collections.
16 b. Uniformity in the state and local tax bases.
17 c. Uniformity of major tax base definitions.
18 d. Central, electronic registration system for all member states.
19 e. Simplification of state and local tax rates.
20 f. Uniform sourcing rules for all taxable transactions.
21 g. Simplified administration of exemptions.
22 h. Simplified tax returns.
23 i. Simplification of tax remittances.
24 j. Protection of consumer privacy.
25

26 **Section 103: Taxing Authority Preserved**
27

28 This Agreement shall not be construed as intending to influence a member state to impose a tax
29 on or provide an exemption from tax for any item or service. However, if a member state
30 chooses to tax an item or exempt an item from tax, that state shall adhere to the provisions
31 concerning definitions as set out in Article 3 of this Agreement.
32

1 **Section 104: Defined Terms**

2
3 This Agreement defines terms for use within the Agreement and for application in the sales and
4 use tax laws of the member states. The definition of a term is not intended to influence the
5 interp.retation or application of that term with respect to other tax types.

6
7 An alphabetical list of all the terms defined in the Agreement and their location in the Agreement
8 is found in Appendix B of this Agreement, the Index of Definitions. Terms defined for use
9 within this Agreement are set out in Article II of the Agreement. Many of the uniform definitions
10 for application in the sales and use tax laws of the member states are set out in Appendix C of
11 this Agreement, the Library of Definitions. Definitions that are not set out in Appendix C are
12 defined when applied in a particular section of the Agreement and are set out in that section of
13 the Agreement. The appendices have the same effect as the Articles in the Agreement.

14
15 **Section 105: TREATMENT OF VENDING MACHINES**

16
17 The provisions of the Agreement do not apply to vending machines sales. The Agreement does
18 not restrict how a member state taxes vending machine sales.

1 **ARTICLE II**
2 **DEFINITIONS**

3
4 The following definitions apply in this Agreement:

5 **Section 201: AGENT**

6 A person appointed by a seller to represent the seller before the member states.

7 **Section 202: CERTIFIED AUTOMATED SYSTEM (CAS)**

8 Software certified under the Agreement to calculate the tax imposed by each jurisdiction on a
9 transaction, determine the amount of tax to remit to the appropriate state, and maintain a record
10 of the transaction.

11 **Section 203: CERTIFIED SERVICE PROVIDER (CSP)**

12 An agent certified under the Agreement to perform all the seller's sales and use tax functions,
13 other than the seller's obligation to remit tax on its own purchases.

14 **Section 204: ENTITY-BASED EXEMPTION**

15 An exemption based on who purchases the product or who sells the product.

16 **Section 205: MODEL 1 SELLER**

17 A seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions,
18 other than the seller's obligation to remit tax on its own purchases.

19 **Section 206: MODEL 2 SELLER**

20 A seller that has selected a CAS to perform part of its sales and use tax functions, but retains
21 responsibility for remitting the tax.

22 **Section 207: MODEL 3 SELLER**

23 A seller that has sales in at least five member states, has total annual sales revenue of at least five
24 hundred million dollars, has a proprietary system that calculates the amount of tax due each
25 jurisdiction, and has entered into a performance agreement with the member states that
26 establishes a tax performance standard for the seller. As used in this definition, a seller includes
27 an affiliated group of sellers using the same proprietary system.

28 **Section 208: PERSON**

29 An individual, trust, estate, fiduciary, partnership, limited liability company, limited liability
30 partnership, corporation, or any other legal entity.

31 **Section 209: PRODUCT-BASED EXEMPTION**

1 An exemption based on the description of the product and not based on who purchases the
2 product or how the purchaser intends to use the product.

3 **Section 210: PURCHASER**

4 A person to whom a sale of personal property is made or to whom a service is furnished.

5 **Section 211: REGISTERED UNDER THIS AGREEMENT**

6 Registration by a seller with the member states under the central registration system provided in
7 Article IV of this Agreement.

8 **Section 212: SELLER**

9 A person making sales, leases, or rentals of personal property or services.

10 **Section 213: STATE**

11 Any state of the United States and the District of Columbia.

12 **Section 214: USE-BASED EXEMPTION**

13 An exemption based on the purchaser's use of the product.

14

1 **ARTICLE III**

2 **REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE**

3
4
5 **Section 301: STATE LEVEL ADMINISTRATION**

6 Each member state shall provide state level administration of sales and use taxes. The state level
7 administration may be performed by a member state's Tax Commission, Department of Revenue,
8 or any other single entity designated by state law. Sellers are only required to register with, file
9 returns with, and remit funds to the state taxing level authority. Each member state shall ~~collect~~
10 provide for collection of any local taxes and ~~distribute~~ distribution of them to the appropriate
11 taxing jurisdictions. Each member state shall conduct, or authorize others to conduct on its
12 behalf, all audits of the sellers registered under this Agreement for that state's tax and the tax of
13 its local jurisdictions, and local jurisdictions shall not conduct independent sales or use tax audits
14 of sellers registered under this Agreement.

15
16 **Section 302: STATE AND LOCAL TAX BASES**

17 Through December 31, 2005, if a member state has local jurisdictions that levy a sales or use tax,
18 all local jurisdictions in the state shall have a common tax base. After December 31, 2005, the
19 tax base for local jurisdictions shall be identical to the state tax base unless otherwise prohibited
20 by federal law. This section does not apply to sales or use taxes levied on the retail sale or
21 transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes or mobile
22 homes.

23
24 **Section 303: SELLER REGISTRATION**

25 Each member state shall participate in an online sales and use tax registration system in
26 cooperation with the other member states. Under this system:

- 27 A. A seller registering under the Agreement is registered in each of the member states.
28 B. The member states agree not to require the payment of any registration fees or other
29 charges for a seller to register in a state in which the seller has no legal requirement to
30 register.

- 1 C. A written signature from the seller is not required.
- 2 D. An agent may register a seller under uniform procedures adopted by the member states.
- 3 E. A seller may cancel its registration under the system at any time under uniform
- 4 procedures adopted by the governing board. Cancellation does not relieve the seller of its
- 5 liability for remitting to the proper states any taxes collected.
- 6

7 **Section 304: STATE AND LOCAL TAX LEVIES**

8 Each member state shall:

- 9 A. Lessen the difficulties faced by sellers when there is a change in a state sales or use tax
- 10 rate or base by making a reasonable effort to do all of the following:
- 11 1. Provide sellers with as much advance notice as practicable of a rate change.
- 12 2. Limit the effective date of a rate change to the first day of a calendar quarter.
- 13 3. Notify sellers of legislative changes in the tax base and amendments to sales and use
- 14 tax rules and regulations.

15 Failure of a seller to receive notice or failure of a member state to provide notice or limit the

16 effective date of a rate change shall not relieve the seller of its obligation to collect sales or use

17 taxes for that member state.

- 18 B. Provide that the effective date of rate changes for services covering a period starting
- 19 before and ending after the statutory effective date shall be as follows:
- 20 1. For a rate increase, the new rate shall apply to the first billing period starting on or
- 21 after the effective date.
- 22 2. For a rate decrease, the new rate shall apply to bills rendered on or after the effective
- 23 date.
- 24

25 **Section 305: LOCAL RATE AND BOUNDARY CHANGES**

26 Each member state that has local jurisdictions that levy a sales or use tax shall:

- 27 A. Provide that local rate changes will be effective only on the first day of a calendar
- 28 quarter after a minimum of sixty (60) days notice to sellers.
- 29 B. Apply local sales tax rate changes to purchases from printed catalogs wherein the
- 30 purchaser computed the tax based upon local tax rates published in the catalog only on

- 1 the first day of a calendar quarter after a minimum of 120 days notice to sellers.
- 2 C. For sales and use tax purposes only, apply local jurisdiction boundary changes only on
3 the first day of a calendar quarter after a minimum of sixty (60) days notice to sellers.
- 4 D. Provide and maintain a database that describes boundary changes for all taxing
5 jurisdictions. This database shall include a description of the change and the effective
6 date of the change for sales and use tax purposes.
- 7 E. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions
8 levying taxes within the state. For the identification of states, counties, cities, and
9 parishes, codes corresponding to the rates must be provided according to Federal
10 Information Processing Standards (FIPS) as developed by the National Institute of
11 Standards and Technology. For the identification of all other jurisdictions, codes
12 corresponding to the rates must be in the format determined by the governing board.
- 13 F. Provide and maintain a database that assigns each five (5) digit and nine (9) digit zip
14 code within a member state to the proper tax rates and jurisdictions. The state must apply
15 the lowest combined tax rate imposed in the zip code area if the area includes more than
16 one tax rate in any level of taxing jurisdictions. If a nine (9) digit zip code designation is
17 not available for a street address or if a seller is unable to determine the nine (9) digit zip
18 code designation of a purchaser after exercising due diligence to determine the
19 designation, the seller may apply the rate for the five (5) digit zip code area. For the
20 purposes of this section, there is a rebuttable presumption that a seller has exercised due
21 diligence if the seller has attempted to determine the nine (9) digit zip code designation
22 by utilizing software approved by the governing board that makes this designation from
23 the street address and the five (5) digit zip code of the purchaser.
- 24 G. Participate with other member states in the development of an address-based system for
25 assigning taxing jurisdictions. The system must meet the requirements developed
26 pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sec. 119).
27 The governing board may allow a member state to require sellers that register under this
28 Agreement to use an address-based system provided by that member state. If any
29 member state develops an address-based assignment system pursuant to the Mobile
30 Telecommunications Sourcing Act, a seller may use that system in place of the system

1 provided for in subsection (F) of this section.

2 ~~H. The provisions of subsections (A) and (B) of this section do not apply to sales or use~~
3 ~~taxes levied on the retail sale or transfer of motor vehicles, aircraft, watercraft, modular~~
4 ~~homes, manufactured homes or mobile homes.~~

5
6 **Section 306: RELIEF FROM CERTAIN LIABILITY**

7
8 Each member state shall relieve sellers and CSPs from liability to the member state and local
9 jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting
10 from the seller or CSP relying on erroneous data provided by a member state on tax rates,
11 boundaries, or taxing jurisdiction assignments. A member state that provides an address-based
12 system for assigning taxing jurisdictions pursuant to Section 305, subsection (G) or pursuant to
13 the federal Mobile Telecommunications Sourcing Act will not be required to provide liability
14 relief for errors resulting from the reliance on the information provided by the member state
15 under the provisions of Section 305, subsection (F).

16
17 **Section 307: DATABASE REQUIREMENTS AND EXCEPTIONS**

18
19 A. The electronic databases provided for in Section 305, subsections (D), (E), (F), and (G) shall
20 be in a downloadable format approved by the governing board.

21 B. The provisions of Section 305, subsections (F) and (G) do not apply when the purchased
22 product is received by the purchaser at the business location of the seller.

23 C. The databases provided by Section 305, subsections (D), (E), and (F) are not a requirement of
24 a state prior to entering into the Agreement. The governing board shall establish the effective
25 dates for availability and use of the databases.

26
27 **Section 308: STATE AND LOCAL TAX LEVIES (RATES)**

28 A. Each member state shall not have multiple state tax rates on items of personal property or
29 services after December 31, 2005, except that a member state may impose a single additional
30 rate, which may be zero, on food and food ingredients and drugs as defined by state law pursuant
31 to the Agreement.

1 B. A member state that has local jurisdictions that levy a sales or use tax shall not have more
2 than one sales tax rate or more than one use tax rate per local jurisdiction. If the local
3 jurisdiction levies both a sales tax and use tax, the rates must be identical.

4 C. The provisions of this section do not apply to sales or use taxes levied on electricity, piped
5 natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfer
6 of motor vehicles, aircraft, watercraft, modular homes, manufactured homes or mobile home.

8 **Section 309: GENERAL SOURCING RULES**

10 Each member state shall agree to require sellers to source the sale (including the lease or rental)
11 of a product in accordance with the following provisions. These provisions apply regardless of
12 the characterization of a product as tangible personal property, a digital good, or a service. These
13 provisions only apply to determine a seller's obligation to pay or collect and remit a sales or use
14 tax with respect to the seller's sale of a product. These provisions do not affect the obligation of a
15 seller as purchaser to remit tax on the use of the product to the taxing jurisdictions where that use
16 occurs. This section does not apply to sales or use taxes levied on the retail sale or transfer of
17 motor vehicles, aircraft, watercraft, modular home, manufactured home or mobile home, which
18 items must be sourced according to the requirements of each member state.

19 A. When the product is received by the purchaser at a business location of the seller, the
20 sale is sourced to that business location.

21 B. When the product is not received by the purchaser at a business location of the seller, the
22 sale is sourced to the location where receipt by the purchaser (or the purchaser's donee,
23 designated as such by the purchaser) occurs, including the location indicated by
24 instructions for delivery to the purchaser (or donee), known to the seller.

25 C. When subsection (A) and subsection (B) do not apply, the sale is sourced to the location
26 indicated by an address for the purchaser that is available from the business records of
27 the seller that are maintained in the ordinary course of the seller's business when use of
28 this address does not constitute bad faith.

29 D. When subsection (A), subsection (B), and subsection (C) do not apply, the sale is
30 sourced to the location indicated by an address for the purchaser obtained during the

1 consummation of the sale, including the address of a purchaser's payment instrument, if
2 no other address is available, when use of this address does not constitute bad faith.

- 3 E. When none of the previous rules of subsection (A), subsection (B), subsection (C), and
4 subsection (D) apply, including the circumstance where the seller is without sufficient
5 information to apply the previous rules, then the location will be determined by the
6 address from which tangible personal property was shipped, from which the digital good
7 was first available for transmission by the seller, or from which the service was provided
8 (disregarding for these purposes any location that merely provided the digital transfer of
9 the product sold).

10
11 **Section 310: MULTIPLE POINTS OF USE**

12
13 Notwithstanding the provisions of Section 309, a business purchaser that is not a holder of a
14 direct pay permit that knows at the time of its purchase of a digital good or a service that the
15 digital good or service will be concurrently available for use in more than one jurisdiction shall
16 deliver to the seller in conjunction with its purchase a form disclosing this fact ("Multiple Points
17 of Use or MPU" Exemption Form).

- 18 A. Upon receipt of the MPU Exemption Form, the seller is relieved of all obligation to
19 collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect,
20 pay, or remit the applicable tax on a direct pay basis.
- 21 B. A purchaser delivering the MPU Exemption Form may use any reasonable, but
22 consistent and uniform, method of apportionment that is supported by the purchaser's
23 business records as they exist at the time of the consummation of the sale.
- 24 C. The MPU Exemption Form will remain in effect for all future sales by the seller to the
25 purchaser (except as to the subsequent sale's specific apportionment that is governed by
26 the principle of subsection (B) and the facts existing at the time of the sale) until it is
27 revoked in writing.
- 28 D. A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form
29 to the seller. A direct pay permit holder shall follow the provisions of subsection (B) in
30 apportioning the tax due on a digital good or a service that will be concurrently available

1 for use in more than one jurisdiction.

2
3 **Section 311: SOURCING DEFINITIONS**

4
5 For the purposes of Sections 309 and 310, the terms "receive" and "receipt" mean:

- 6 A. taking possession of tangible personal property,
7 B. making first use of services, or
8 C. taking possession or making first use of digital goods, whichever comes first.

9 The terms "receive" and "receipt" do not include possession by a shipping company on behalf of
10 the purchaser.

11
12 **Section 312: TELECOMMUNICATION SOURCING RULE**

13
14 A. Except for the defined telecommunication services in subsection (C), the sale of
15 telecommunication service sold on a call-by-call basis shall be sourced to (i) each level of
16 taxing jurisdiction where the call originates and terminates in that jurisdiction or (ii) each
17 level of taxing jurisdiction where the call either originates or terminates and in which the
18 service address is also located.

19 B. Except for the defined telecommunication services in subsection (C), a sale of
20 telecommunications services sold on a basis other than a call-by-call basis, is sourced to the
21 customer's place of primary use.

22 C. The sale of the following telecommunication services shall be sourced to each level of
23 taxing jurisdiction as follows:

- 24 1. A sale of mobile telecommunications services other than air-to-ground radiotelephone
25 service and prepaid calling service, is sourced to the customer's place of primary use
26 as required by the Mobile Telecommunications Sourcing Act.
27 2. A sale of post-paid calling service is source to the origination point of the
28 telecommunications signal as first identified by either (i) the seller's
29 telecommunications system, or (ii) information received by the seller from its service
30 provider, where the system used to transport such signals is not that of the seller.

- 1 3. A sale of prepaid calling service is sourced in accordance with Section 309. Provided
2 however, in the case of a sale of mobile telecommunications service that is a prepaid
3 telecommunications service, the rule provided in Section 309, subsection (D) shall
4 include as an option the location associated with the mobile telephone number.
- 5 4. A sales of a private communication service is sourced as follows:
- 6 a. Service for a separate charge related to a customer channel termination point is
7 sourced to each level of jurisdiction in which such customer channel termination
8 point is located.
- 9 b. Service where all customer termination points are located entirely within one
10 jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the
11 customer channel termination points are located.
- 12 c. Service for segments of a channel between two customer channel termination points
13 located in different jurisdictions and which segment of channel are separately charged
14 is sourced 50% in each level of jurisdiction in which the customer channel
15 termination points are located.
- 16 d. Service for segments of a channel located in more than one jurisdiction or levels of
17 jurisdiction and which segments are not separately billed is sourced in each
18 jurisdiction based on the percentage determined by dividing the number of customer
19 channel termination points in such jurisdiction by the total number of customer
20 channel termination points.

21

22 **Section 313: TELECOMMUNICATION SOURCING DEFINITIONS**

23

24 For purpose of Section 312, the following terms mean:

- 25 A. "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in
26 47 CFR 22.99, in which common carriers are authorized to offer and provide radio
27 telecommunications service for hire to subscribers in aircraft.
- 28 B. "Call-by-call Basis" means any method of charging for telecommunications services
29 where the price is measured by individual calls.
- 30 C. "Communications Channel" means a physical or virtual path of communications over

- 1 which signals are transmitted between or among customer channel termination points.
- 2 D. "Customer" means the person or entity that contracts with the seller of
- 3 telecommunications services. If the end user of telecommunications services is not the
- 4 contracting party, the end user of the telecommunications service is the customer of the
- 5 telecommunication service, but this sentence only applies for the purpose of sourcing
- 6 sales of telecommunications services under Section 312. "Customer" does not include a
- 7 reseller of telecommunications service or for mobile telecommunications service of a
- 8 serving carrier under an agreement to serve the customer outside the home service
- 9 provider's licensed service area.
- 10 E. "Customer Channel Termination Point" means the location where the customer either
- 11 inputs or receives the communications.
- 12 F. "End user" means the person who utilizes the telecommunication service. In the case of
- 13 an entity, "end user" means the individual who utilizes the service on behalf of the
- 14 entity.
- 15 G. "Home service provider" means the same as that term is defined in Section 124(5) of
- 16 Public Law 106-252 (Mobile Telecommunications Sourcing Act).
- 17 H. "Mobile telecommunications service" means the same as that term is defined in Section
- 18 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).
- 19 I. "Place of primary use" means the street address representative of where the customer's
- 20 use of the telecommunications service primarily occurs, which must be the residential
- 21 street address or the primary business street address of the customer. In the case of
- 22 mobile telecommunications services, "place of primary use" must be within the licensed
- 23 service area of the home service provider.
- 24 J. "Post-paid calling service" means the telecommunications service obtained by making a
- 25 payment on a call-by-call basis either through the use of a credit card or payment
- 26 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made
- 27 to which a telephone number which is not associated with the origination or termination
- 28 of the telecommunications service. A post-paid calling service includes a
- 29 telecommunications service that would be a prepaid calling service except it is not
- 30 exclusively a telecommunication service.

1 K. "Prepaid calling service" means the right to access exclusively telecommunications
2 services, which must be paid for in advance and which enables the origination of calls
3 using an access number or authorization code, whether manually or electronically dialed,
4 and that is sold in predetermined units or dollars of which the number declines with use
5 in a known amount.

6 L. "Private communication service" means a telecommunication service that entitles the
7 customer to exclusive or priority use of a communications channel or group of channels
8 between or among termination points, regardless of the manner in which such channel or
9 channels are connected, and includes switching capacity, extension lines, stations, and
10 any other associated services that are provided in connection with the use of such
11 channel or channels.

12 M. "Service address" means:

- 13 1. The location of the telecommunications equipment to which a customer's call is
14 charged and from which the call originates or terminates, regardless of where the call
15 is billed or paid.
- 16 2. If the location in subsection (M) (1) is not known, service address means the
17 origination point of the signal of the telecommunications services first identified by
18 either the seller's telecommunications system or in information received by the seller
19 from its service provider, where the system used to transport such signals is not that
20 of the seller.
- 21 3. If the location in subsection (M) (1) and subsection (M) (2) are not known, the service
22 address means the location of the customer's place of primary use.

23 24 **Section 314: ENACTMENT OF EXEMPTIONS**

25
26 A. A member state may enact a product-based exemption without restriction if the Agreement
27 does not have a definition for the product or for a term that includes the product. If the
28 Agreement has a definition for the product or for a term that includes the product, a member state
29 may exempt all items included within the definition but may not exempt only part of the items
30 included within the definition unless the Agreement sets out the exemption for part of the items
31 as an acceptable variation.

1 B. A member state may enact an entity-based or a use-based exemption without restriction if the
2 Agreement does not have a definition for the product whose use or purchase by a specific entity
3 is exempt or for a term that includes the product. If the Agreement has a definition for the
4 product whose use or specific purchase is exempt, a member state may enact an entity-based or a
5 use-based exemption that applies to that product as long as the exemption utilizes the Agreement
6 definition of the product. If the Agreement does not have a definition for the product whose use
7 or specific purchase is exempt but has a definition for a term that includes the product, a member
8 state may enact an entity-based or a use-based exemption for the product without restriction.
9

10 C. For purposes of complying with the requirements in this section, the inclusion of a product
11 within the definition of tangible personal property is disregarded.
12

13 **Section 315: ADMINISTRATION OF EXEMPTIONS**

14 A. Each member state shall observe the following provisions when a purchaser claims an
15 exemption:

- 16 1. The seller shall obtain identifying information of the purchaser and the reason for
17 claiming a tax exemption at the time of the purchase as determined by the governing
18 board.
- 19 2. A purchaser is not required to provide a signature to claim an exemption from tax unless
20 a paper exemption certificate is used.
- 21 3. The seller shall use the standard form for claiming an exemption electronically as
22 adopted by the governing board.
- 23 4. The seller shall obtain the same information for proof of a claimed exemption regardless
24 of the medium in which the transaction occurred.
- 25 5. A member state may utilize a system wherein the purchaser exempt from the payment of
26 the tax is issued an identification number that shall be presented to the seller at the time
27 of the sale.
- 28 6. The seller shall maintain proper records of exempt transactions and provide them to a
29 member state when requested.
- 30 7. A member state shall administer use-based and entity-based exemptions when practicable

1 through a direct pay permit, an exemption certificate, or another means that does not
2 burden sellers.

3 B. Each member state shall relieve sellers that follow the requirements of this section from any
4 tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption
5 and to hold the purchaser liable for the nonpayment of tax. This relief from liability does not
6 apply to a seller who fraudulently fails to collect the tax or solicits purchasers to participate in
7 the unlawful claim of an exemption.

8
9 **Section 316: UNIFORM TAX RETURNS**

10 Each member state shall:

- 11 A. Require that only one tax return for each taxing period for each seller be filed for the
12 member state and all the taxing jurisdictions within the member state.
- 13 B. Require that returns be due no sooner than the 20th day of the month following the month
14 in which the transaction occurred.
- 15 C. Allow any Model 1, Model 2, or Model 3 seller to submit its sales and use tax returns in
16 a simplified format which does not include more data fields than permitted by the
17 governing board. A member state may require additional informational returns to be
18 submitted not more frequently than every six months under a staggered system
19 developed by the governing board.
- 20 D. Allow any seller that is registered under the Agreement, which does not have a legal
21 requirement to register in the member state, and is not a Model 1, 2, or 3 seller, to submit
22 its sales and use tax returns as follows:
- 23 1. Upon registration, a member state shall provide to the seller the returns required by
24 that state.
- 25 2. A member state may require a seller to file a return anytime within one (1) year of the
26 month of initial registration, and future returns may be required on an annual basis in
27 succeeding years.
- 28 3. In addition to the returns required in subsection (D)(2), a member state may require
29 sellers to submit returns in the month following any month in which they have
30 accumulated state and local tax funds for the state in the amount of \$1,000 or more.

- 1 4. Participate with other member states in developing a more uniform sales and use tax
2 return that, when completed, would be available to all sellers.
- 3 5. Require, at each member state's discretion, all Model 1, 2, and 3 sellers to file returns
4 electronically. It is the intent of the member states that all member states have the
5 capability of receiving electronically filed returns by January 1, 2004.
6

7 **Section 317: UNIFORM RULES FOR REMITTANCES OF FUNDS**

8 Each member state shall:

- 9 A. Require only one remittance for each return except as provided in this subsection. If any
10 additional remittance is required, it may only be required from sellers that collect more
11 than \$30,000 in sales and use taxes in the member state during the preceding calendar
12 year as provided herein. The amount of the additional remittance shall be determined
13 through a calculation method rather than actual collections and shall not require the
14 filing of an additional return.
- 15 B. Require, at each member state's discretion, all remittances from sellers under Models 1,
16 2, and 3 to be remitted electronically.
- 17 C. Allow for electronic payments by both ACH Credit and ACH Debit.
- 18 D. Provide an alternative method for making "same day" payments if an electronic funds
19 transfer fails.
- 20 E. Provide that if a due date falls on a legal banking holiday in a member state, the taxes are
21 due to that state on the next succeeding business day.
- 22 F. Require that any data that accompanies a remittance be formatted using uniform tax type
23 and payment type codes approved by the governing board.
24

25 **Section 318: UNIFORM RULES FOR RECOVERY OF BAD DEBTS**

26

27 Each member state shall use the following to provide a deduction for bad debts to a seller. To
28 the extent a member state provides a bad debt deduction to any other party, the same procedures
29 will apply. Each member state shall:

- 30 A. Allow a deduction from taxable sales for bad debts. Any deduction taken that is

- 1 attributed to bad debts shall not include interest.
- 2 B. Utilize the federal definition of "bad debt" in 26 U.S.C. Sec. 166 as the basis for
3 calculating bad debt recovery. However, the amount calculated pursuant to 26 U.S.C.
4 Sec. 166 shall be adjusted to exclude: financing charges or interest; sales or use taxes
5 charged on the purchase price; uncollectable amounts on property that remain in the
6 possession of the seller until the full purchase price is paid; expenses incurred in
7 attempting to collect any debt, and repossessed property.
- 8 C. Allow bad debts to be deducted on the return for the period during which the bad debt is
9 written off as uncollectable in the claimant's books and records and is eligible to be
10 deducted for federal income tax purposes. For purposes of this subsection, a claimant
11 who is not required to file federal income tax returns may deduct a bad debt on a return
12 filed for the period in which the bad debt is written off as uncollectable in the claimant's
13 books and records and would be eligible for a bad debt deduction for federal income tax
14 purposes if the claimant was required to file a federal income tax return.
- 15 D. Require that, if a deduction is taken for a bad debt and the debt is subsequently collected
16 in whole or in part, the tax on the amount so collected must be paid and reported on the
17 return filed for the period in which the collection is made.
- 18 E. Provide that, when the amount of bad debt exceeds the amount of taxable sales for the
19 period during which the bad debt is written off, a refund claim may be filed within the
20 member state's otherwise applicable statute of limitations for refund claims; however,
21 the statute of limitations shall be measured from the due date of the return on which the
22 bad debt could first be claimed.
- 23 F. Where filing responsibilities have been assumed by a CSP, allow the service provider to
24 claim, on behalf of the seller, any bad debt allowance provided by this section. The CSP
25 must credit or refund the full amount of any bad debt allowance or refund received to the
26 seller.
- 27 G. Provide that, for the purposes of reporting a payment received on a previously claimed
28 bad debt, any payments made on a debt or account are applied first proportionally to the
29 taxable price of the property or service and the sales tax thereon, and secondly to
30 interest, service charges, and any other charges.

- 1 H. In situations where the books and records of the party claiming the bad debt allowance
2 support an allocation of the bad debts among the member states, permit the allocation.
3

4 **Section 319: CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL 1**
5

- 6 A. The purpose of this section is to set forth the member states' policy for the protection of
7 the confidentiality rights of all participants in the system and of the privacy interests of
8 consumers who deal with Model 1 sellers.
- 9 B. As used in this section, the term "confidential taxpayer information" means all
10 information that is protected under a member state's laws, regulations, and privileges; the
11 term "personally identifiable information" means information that identifies a person;
12 and the term "anonymous data" means information that does not identify a person.
- 13 C. The member states agree that a fundamental precept in Model 1 is to preserve the
14 privacy of consumers by protecting their anonymity. With very limited exceptions, a
15 CSP shall perform its tax calculation, remittance, and reporting functions without
16 retaining the personally identifiable information of consumers.
- 17 D. The governing board may certify a CSP only if that CSP certifies that:
- 18 1. Its system has been designed and tested to ensure that the fundamental precept of
19 anonymity is respected;
 - 20 2. That personally identifiable information is only used and retained to the extent
21 necessary for the administration of Model 1 with respect to exempt purchasers;
 - 22 3. It provides consumers clear and conspicuous notice of its information practices,
23 including what information it collects, how it collects the information, how it uses the
24 information, how long, if at all, it retains the information and whether it discloses the
25 information to member states. Such notice shall be satisfied by a written privacy
26 policy statement accessible by the public on the official web site of the CSP;
 - 27 4. Its collection, use and retention of personally identifiable information will be limited
28 to that required by the member states to ensure the validity of exemptions from
29 taxation that are claimed by reason of a consumer's status or the intended use of the
30 goods or services purchased; and

- 1 5. It provides adequate technical, physical, and administrative safeguards so as to
2 protect personally identifiable information from unauthorized access and disclosure.
- 3 E. Each member state shall provide public notification to consumers, including their exempt
4 purchasers, of the state's practices relating to the collection, use and retention of
5 personally identifiable information.
- 6 F. When any personally identifiable information that has been collected and retained is no
7 longer required for the purposes set forth in subsection (D) (3), such information shall no
8 longer be retained by the member states.
- 9 G. When personally identifiable information regarding an individual is retained by or on
10 behalf of a member state, such state shall provide reasonable access by such individual to
11 his or her own information in the state's possession and a right to correct any inaccurately
12 recorded information.
- 13 H. If anyone other than a member state, or a person authorized by that state's law or the
14 Agreement, seeks to discover personally identifiable information, the state from whom
15 the information is sought should make a reasonable and timely effort to notify the
16 individual of such request.
- 17 I. This privacy policy is subject to enforcement by member states' attorneys general or other
18 appropriate state government authority.
- 19 J. Each member states' laws and regulations regarding the collection, use, and maintenance
20 of confidential taxpayer information remain fully applicable and binding. Without
21 limitation, the Agreement does not enlarge or limit the member states' authority to:
- 22 1. Conduct audits or other review as provided under the Agreement and state law.
23 2. Provide records pursuant to a member state's Freedom of Information Act, disclosure
24 laws with governmental agencies, or other regulations.
25 3. Prevent, consistent with state law, disclosures of confidential taxpayer information.
26 4. Prevent, consistent with federal law, disclosures or misuse of federal return
27 information obtained under a disclosure agreement with the Internal Revenue Service.
28 5. Collect, disclose, disseminate, or otherwise use anonymous data for governmental
29 purposes.
- 30 K. This privacy policy does not preclude the governing board from certifying a CSP whose

1 privacy policy is more protective of confidential taxpayer information or personally
2 identifiable information than is required by the Agreement.
3

4 **Section 320: SALES TAX HOLIDAYS**

5

6 A. If a member state allows for temporary exemption periods, commonly referred to as sales tax
7 holidays, the member state shall not apply an exemption after December 31, 2003 unless:

- 8 1. Items to be exempted are specifically defined in the Agreement; and
- 9 2. The exemptions are uniformly applied to state and local sales and use
10 taxes.

11 Further, a member state shall provide notice of the exemption period at least sixty (60)
12 days prior to the first day of the calendar quarter in which the exemption period will
13 begin. A member state may establish a sales tax holiday that utilizes price thresholds set
14 by such state and the provisions of the Agreement on the use of thresholds shall not apply
15 to exemptions provided by a state during a sales tax holiday. In order to provide
16 uniformity, a price threshold established by a member state for exempt items shall
17 include only items priced below the threshold. A member state shall not exempt only a
18 portion of the price of an individual item during a sales tax holiday.

19 B. The governing board shall establish procedures to provide uniformity for the
20 administrative issues involved with the implementation of a sales tax holiday. These
21 issues include, but are not limited to:

- 22
- 23 1. Treatment of layaway purchases;
- 24 2. Exempt and nonexempt items that are packaged together;
- 25 3. Treatment of coupons or discounts;
- 26 4. Splitting of items normally sold together;
- 27 5. Treatment of rainchecks;
- 28 6. Exchanges;
- 29 7. Shipping and handling charges;
- 30 8. Service charges;
- 31 9. Restocking fees; and

1 10. Order date/Back orders.

2
3 **Section 321: CAPS AND THRESHOLDS**

4 A. Each member state shall:

- 5 1. Not have caps or thresholds on the application of state sales or use tax rates or
6 exemptions that are based on the value of the transaction or item after December 31,
7 2005. A member state may continue to have caps and thresholds until that date. ~~The~~
8 ~~provisions of this subsection do not apply to sales or use taxes levied on the retail sale~~
9 ~~or transfer of motor vehicles, aircraft, watercraft, modular home, manufactured homes~~
10 ~~or mobile homes or to instances where the burden of administration has been shifted~~
11 ~~from the retailer.~~
- 12 2. Not have caps that are based on the application of the rates unless the member state
13 assumes the administrative responsibility in a manner that places no additional burden
14 on the retailer.

15
16 B. Each member state that has local jurisdictions that levy a sales or use tax shall: ~~Not~~ not
17 place caps or thresholds on the application of local rates or use tax rates or exemptions
18 that are based on the value of the transaction or item after December 31, 2005. A
19 member state may continue to have caps and thresholds until that date.

- 20 ~~1. The provisions of this subsection do not apply to sales or use taxes levied on the retail~~
21 ~~sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured~~
22 ~~homes or mobile homes or to instances where the burden of administration has been~~
23 ~~shifted from the retailer.~~

24
25 C. The provisions of this section do not apply to sales or use taxes levied on the retail sale or
26 transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes or
27 mobile homes or to instances where the burden of administration has been shifted from the
28 retailer.

29
30 **Section 322: ROUNDING RULE**

1 ~~The Agreement may approve more than one rounding algorithm. The Agreement must maintain~~
2 ~~that the tax be carried to the third decimal place and that sellers may elect to compute the tax due~~
3 ~~on the transaction on an item or invoice basis.~~

4
5 ~~Bracket systems must be eliminated and the rounding rules should be applied to the aggregated~~
6 ~~state and local taxes.~~

7 After December 31, 2005, each member state shall adopt a rounding algorithm that meets the
8 following criteria:

- 9 1. Tax computation must be carried to the third decimal place, and
- 10 2. The tax must be rounded to a whole cent using a method that either a) rounds up to
11 the next cent whenever the third decimal place is greater than four, or b) rounds up to
12 the next cent whenever the third decimal place is greater than zero.

13
14 Each state shall allow sellers to elect to compute the tax due on a transaction on an item or an
15 invoice basis, and shall allow the rounding rule to be applied to the aggregated state and local
16 taxes. No member state shall require a seller to collect tax based on a bracket system.

18 **Section 323: CUSTOMER REFUND PROCEDURES**

- 20 A. These customer refund procedures are provided to apply ~~only~~ when a state allows a
21 purchaser to seek a return of over-collected sales or use taxes from the seller.
- 22 B. Nothing in this section shall either require a state to provide, or prevent a state from
23 providing, a procedure by which a purchaser may seek a refund directly from the state
24 arising out of sales or use taxes collected in error by a seller from the purchaser.
25 Nothing in this section shall operate to extend any person's time to seek a refund of sales
26 or use taxes collected or remitted in error.
- 27 C. These customer refund procedures provide the first course of remedy available to

1 purchasers seeking a return of over-collected sales or use taxes from the seller. A cause
2 of action against the seller for the over-collected sales or use taxes does not accrue until
3 a purchaser has provided written notice to a seller and the seller has had sixty days to
4 respond. Such notice to the seller must contain the information necessary to determine
5 the validity of the request.

6 D. In connection with a purchaser's request from a seller of over-collected sales or use
7 taxes, a seller shall be presumed to have a reasonable business practice, if in the
8 collection of such sales or use taxes, the seller: i) uses either a provider or a system,
9 including a proprietary system, that is certified by the state; and ii) has remitted to the
10 state all taxes collected less any deductions, credits, or collection allowances.

12 **Section 324: DIRECT PAY PERMITS**

14 Each member state shall provide for a direct pay authority that allows the holder of a direct pay
15 permit to purchase otherwise taxable goods and services without payment of tax to the supplier
16 at the time of purchase. The holder of the direct pay permit will make a determination of the
17 taxability and then report and pay the applicable tax due directly to the tax jurisdiction. Each
18 state can set its own limits and requirements for the direct pay permit. The governing board shall
19 advise member states when setting state direct pay limits and requirements, and shall consider
20 use of the Model Direct Payment Permit Regulation as developed by the Task Force on EDI
21 Audit and Legal Issues for Tax Administration.

23 **Section 325: LIBRARY OF DEFINITIONS**

25 Each member state shall utilize common definitions as provided in this section. The terms
26 defined are set out in the Library of Definitions, in Appendix C of this Agreement. A member
27 state shall adhere to the following principles:

28 A. If a term defined in the Library of Definitions appears in a member state's sales
29 and use tax statutes or administrative rules or regulations, the member state shall
30 enact or adopt the Library definition of the term in its statutes or administrative

1 rules or regulations in substantially the same language as the Library definition.

2 B. A member state shall not use a Library definition in its sales or use tax statutes or
3 administrative rules or regulations that is contrary to the meaning of the Library
4 definition.

5 C. Except as specifically provided in Section 314 and the Library of Definitions, a
6 member state shall impose a sales or use tax on all products or services included
7 within each definition or exempt from sales or use tax all products or services
8 within each definition.

9
10 **Section 326: TAXABILITY MATRIX**

11
12 A. To ensure uniform application of terms defined in the Library of Definitions each
13 member state shall complete a taxability matrix adopted by the governing board.
14 The member state's entries in the matrix shall be provided and maintained in a
15 database that is in a downloadable format approved by the governing board. A
16 member state shall provide notice of changes in the taxability of the products or
17 services listed in the taxability matrix as required by the governing board.

18 B. A member state shall relieve sellers and CSPs from liability to the member state and
19 its local jurisdictions for having charged and collected the incorrect amount of sales
20 or use tax resulting from the seller or CSP relying on erroneous data provided by the
21 member state in the taxability matrix.

ARTICLE IV
SELLER REGISTRATION

Section 401: SELLER PARTICIPATION

- A. The member states shall provide an online registration system that will allow sellers to register in all the member states.
- B. By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the member states, including member states joining after the seller's registration. Withdrawal or revocation of a member state shall not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of the state.
- C. In member states where the seller has a requirement to register prior to registering under the Agreement, the seller may be required to provide additional information to complete the registration process or the seller may choose to register directly with those states.
- D. A member state or a state that has withdrawn or been expelled shall not use registration with the central registration system and the collection of sales and use taxes in the member states as a factor in determining whether the seller has nexus with that state for any tax at any time.

Section 402: AMNESTY FOR REGISTRATIONS

- A. Subject to the limitations in this section:
1. A member state shall provide amnesty for uncollected or unpaid sales or use tax to a seller who registers to pay or to collect and remit applicable sales or use tax on sales made to purchasers in the state in accordance with the terms of the Agreement, provided that the seller was not so registered in that state in the twelve-month period preceding the effective date of the state's participation in the Agreement.
 2. The amnesty will preclude assessment for uncollected or unpaid sales or use tax together with penalty or interest for sales made during the period the seller was not registered in the state, provided registration occurs within twelve months of the effective date of the state's participation in the Agreement.

1 3. Amnesty similarly will be provided by any additional state that joins the Agreement
2 after the seller has registered.

3 B. The amnesty is not available to a seller with respect to any matter or matters for which
4 the seller received notice of the commencement of an audit and which audit is not yet
5 finally resolved including any related administrative and judicial processes.

6 C. The amnesty is not available for sales or use taxes already paid or remitted to the state or
7 to taxes collected by the seller.

8 D. The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of
9 a material fact, as long as the seller continues registration and continues payment or
10 collection and remittance of applicable sales or use taxes for a period of at least thirty-six
11 months. Each member state shall toll its statute of limitations applicable to asserting a tax
12 liability during this thirty-six month period.

13 E. The amnesty is applicable only to sales or use taxes due from a seller in its capacity as a
14 seller and not to sales or use taxes due from a seller in its capacity as a buyer.

15 F. A member state may allow amnesty on terms and conditions more favorable to a seller
16 than the terms required by this section.
17

18 **Section 403: METHOD OF REMITTANCE**

19

20 When registering, the seller may select one of the following methods of remittances or other
21 method allowed by state law to remit the taxes collected:

22 A. MODEL 1, wherein a seller selects a CSP as an agent to perform all the seller's sales or
23 use tax functions, ~~or the seller selects a CSP as an agent to perform all the seller's sales or~~

24 B. MODEL 2, wherein a seller selects a CAS to use which calculates the amount of tax due
25 on a transaction.

26 C. MODEL 3, wherein a seller utilizes its own proprietary automated sales tax system that
27 has been certified as a CAS.
28

29 **Section 404: REGISTRATION BY AN AGENT**

30

- 1 A seller may be registered by an agent. Such appointment must be in writing and submitted to a
- 2 member state if requested by the member state.
- 3

1 **ARTICLE V**

2 **PROVIDER AND SYSTEM CERTIFICATION**

3
4 **Section 501: CERTIFICATION OF SERVICE PROVIDERS AND AUTOMATED**
5 **SYSTEMS**
6

- 7 A. The governing board shall certify automated systems and service providers to aid in the
8 administration of sale and use tax collections.
- 9 B. The governing board may certify a person as a CSP if the person meets all of the
10 following requirements:
- 11 1. The person uses a CAS.
- 12 2. The person integrates its CAS with the system of a seller for whom the person
13 collects tax so that the tax due on a sale is determined at the time of the sale.
- 14 3. The person agrees to remit the taxes it collects at the time and in the manner specified
15 by the member states.
- 16 4. The person agrees to file returns on behalf of the sellers for whom it collects tax.
- 17 5. The person agrees to protect the privacy of tax information it obtains in accordance
18 with Section 319 of the Agreement.
- 19 6. The person enters into a contract with the member states and agrees to comply with
20 the terms of the contract.
- 21 C. The governing board may certify a software program as a CAS if the governing board
22 determines that the program meets all of the following requirements:
- 23 1. It determines the applicable state and local sales and use tax rate for a transaction, in
24 accordance with Sections 309 to 313, inclusive;
- 25 2. It determines whether or not an item is exempt from tax;
- 26 3. It determines the amount of tax to be remitted for each taxpayer for a reporting
27 period;
- 28 4. It can generate reports and returns as required by the governing board; and
- 29 5. It can meet any other requirement set by the governing board.
- 30 D. The governing board may establish one or more sales tax performance standards for

1 **Model 3 sellers that meet the eligibility criteria set by the governing board and that**
2 **developed a proprietary system to determine the amount of sales and use tax due on**
3 **transactions.**
4

ARTICLE VI
MONETARY ALLOWANCES FOR NEW TECHNOLOGICAL MODELS FOR SALES
TAX COLLECTION

Section 601: MONETARY ALLOWANCE UNDER MODEL 1

- A. Each member state shall provide a monetary allowance to a CSP in Model 1 in accordance with the terms of the contract between the governing board and the CSP. The details of the monetary allowance will be provided through the contract process. The governing board shall require that such allowance be funded entirely from money collected in Model 1.
- B. The contract between the governing board and a CSP may base the monetary allowance to a CSP on one or more of the following:
1. A base rate that applies to taxable transactions processed by the CSP.
 2. For a period not to exceed twenty-four (24) months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state for which the seller does not have a requirement to register to collect the tax.

Section 602: MONETARY ALLOWANCE FOR MODEL 2 SELLERS

The member states initially anticipate that they will provide a monetary allowance to sellers under Model 2 based on the following:

- A. All sellers shall receive a base rate for a period not to exceed twenty-four (24) months following the commencement of participation by a seller. The base rate will be set after the base rate has been established for Model 1. This allowance will be in addition to any discount afforded by each member state at the time.
- B. The member states anticipate a monetary allowance to a Model 2 Seller based on the following:
1. For a period not to exceed twenty-four (24) months following a voluntary seller's registration through the Agreement's central registration process, a percentage of tax revenue generated for a member state by the voluntary seller for each member state

- 1 for which the seller does not have a requirement to register to collect the tax.
- 2 2. Following the conclusion of the twenty-four (24) month period, a seller will only be
- 3 entitled to a vendor discount afforded under each member state's law at the time the
- 4 base rate expires.
- 5

6 **Section 603: MONETARY ALLOWANCE FOR MODEL 3 SELLERS AND ALL OTHER**

7 **SELLERS THAT ARE NOT UNDER MODELS 1 OR 2**

- 8 The member states anticipate that they will provide a monetary allowance to sellers under Model
- 9 3 and to all other sellers that are not under Models 1 or 2 based on the following:
- 10 A. For a period not to exceed twenty-four (24) months following a voluntary seller's
- 11 registration through the Agreement's central registration process, a percentage of tax
- 12 revenue generated for a member state by the voluntary seller for each member state for
- 13 which the seller does not have a requirement to register to collect the tax.
- 14 B. Vendor discounts afforded under each member state's law.
- 15